IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SEVENTEENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NOs : 16202 of 2000 and 19223 of 2004.

W.P.NO.16202 OF 2000.

Between:

1 The Superintending Engineer, Sriram Sagar Project,
G.V.C.4., L.M.D.Colony,
Karimnagar District.

2 The Executive Engineer, Sri Ram Sagar Project,
Division No.1, G.V.C.4, L.M.D.Colony,
Karimnagar District.

...PETITIONERS

AND

1 V.Linagaiah, S/o.Kisthaiah,
R/o.Thimmapur Village and Mandal, Karimnagar District.

2 The Presiding Officer, Labour Court-II,
Hyderabad.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order, direction or a Writ Particularly one in the nature of a Writ of Certiorari calling for the records relating to Award, dt:24.5.2000 in I.D.No.22/97 on the file of the Labour Court, Hyderabad and to quash the same and to pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: GP FOR IRRIGATION & COMM AREA DEV.

Counsel for the Respondent No.1: MR.B.G.RAVINDER REDDY

Counsel for the Respondent No.2: G.P.FOR LABOUR

W. P. NO : 19223 of 2004

Between:

V. Lingaiah, S/o. Kistaiah,
R/o. Thimmapur Village and Mandal, Karimnagar District.

..... PETITIONER

AND

1 The Labour Court-II, rep. by its Presiding Officer,
II Floor, M.J. Road, Hyderabad.

2 The Superintending Engineer, Sri Ram Sagar Project,
G.V.C.4, L.M.D. Colony, Karimnagar District.

3 The Executive Engineer, Sri Ram Sagar Project,
Division No.1, G.V.C. 4, L.M.D.Colony, Karimnagar District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to Issue a Writ, order or direction, more particularly one in the nature of writ of Certiorari and Quash the Award No. I.D. 22/97 of Labour Court at Hyderabad to the extent of not granting continuity of service, backwages and other attendant benefits and consequently to direct the respondents to reinstate the petitioner into service, with continuity of service, backwages and all other attendant benefits.

Counsel for the Petitioner: MR.B.G.RAVINDER REDDY

Counsel for the Respondent No.1: G.P. FOR LABOUR

Counsel for the Respondent Nos.2 and 3: GP FOR IRRIGATION & COMM AREA DEV.

The Court made the following :

COMMON ORDER

Heard Government Pleader for Irrigation and also Mr.B.G.Ravinder Reddy, learned counsel appearing on behalf of the worker. Since common question has arisen, these two Writ Petitions are taken up together for disposal.

The petitioners in W.P.No.16202 of 2000 is the Engineering Department of the Government which seek to assail the impugned award, dated 24-05-2000, in I.D.No.22 of 1997, passed by the 2nd respondent where under a direction was given to reinstate the worker into service as a fresh recruit.

Similarly W.P.No.19223 of 2004 is filed by the worker against the same award seeking further relief of reinstatement with all back wages and other attendant benefits.

Few facts which are necessary for disposal of these two cases are that the worker who claimed to be in service with the petitioners in W.P.No.16202 of 2000 sought a reference in regard to termination effected and the same was taken up by the 2nd respondent. During

the course of enquiry, both sides have adduced their evidence and on appreciation of the same and having regard to the material available especially Ex.W1, service certificate, the Labour Court held that the said worker is an employee. But no documents much less any registers or any other papers are produced on behalf of the petitioner to rebut the same. Therefore, observing that there being no proper rebuttal on the part of the petitioners, the service certificate produced by the worker was accepted and accordingly ordered reinstatement as a fresh recruit.

The learned counsel for the respondents submits that there is violation of Section 25-A of the Industrial Disputes Act, 1947 and the Labour Court ought to have directed reinstatement with back wages rather than restricting for fresh appointment.

Considering the submissions made and on perusal of the material, the only question which falls for consideration on the facts and circumstances is as to whether the worker is entitled for reinstatement with back wages and other attendant benefits?

There is no dispute in regard to the reference sought by the worker in respect of claim of reinstatement as against the orders of termination made by the petitioners. In support of the same, the worker has relied on Ex.W1, service certificate. Accepting the same and especially in the absence of any rebuttal documentary evidence like registers or papers etc., being produced by the petitioners, it has to be held that there is illegal termination in violation of Section 2-A (2) of the Industrial Disputes Act, 1947. However, the fact remains that there has been considerable delay on neither side in approaching the Labour Court and also this Court, the same cannot be found by this Court denying any relief of worker. Therefore, taking a totality of the circumstances, it is to be held that the finding as arrived by the Labour Court in regard to worker's service cannot be disturbed nor can be found to be suffered from any perversity. Though an argument was sought to be raised by the petitioners that in fact such

worker was not being paid, but there is no explanation forthcoming for non production of their own records to rebut Ex.W1. In the circumstances, I do not find any merit in the said submission.

Accordingly, W.P.No.16202 of 2000 is dismissed and W.P.No.19223 of 2004 filed by the worker is partly allowed modifying the award by confirming the reinstatement as a fresh recruit. The entire period of service shall be taken into account with continuity of service. No costs.

17-03-2005.

Hsd

That Rule Nisi has been made absolute as in W.P.No.19223 of 2004.

Witness, the Hon'ble Sri Devinder Gupta, the Chief Justice, on this Thursday, the Seventeenth day of March, 2005.

Asst. Registrar

To

1 The Presiding Officer, Labour Court-II,
Hyderabad.

2 The Superintending Engineer, Sri Ram Sagar Project,
G.V.C.4, L.M.D. Colony, Karimnagar District.

3 The Executive Engineer, Sri Ram Sagar Project,
Division No.1, G.V.C. 4, L.M.D.Colony, Karimnagar District.

4 2 C.Cs to G.P. for Labour, High Court buildings, Hyderabad

(OUT)

5 2 C.Cs to G.P. for Irrigation and Comm., Area Dev.High Court buildings, Hyderabad (OUT)

6 2 C.Cs to Mr.B.G.Ravinder Reddy

7 2 CD copies